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Department of Energy

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JAN 22 1992

92-RPB-014

Mr. P. T. Day
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Mr. D. B. Jansen
Hanford Project Manager
State of Washington
Department of Ecology
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Olympia, Washington 98504-8711

Dear Messrs. Day and Nord:

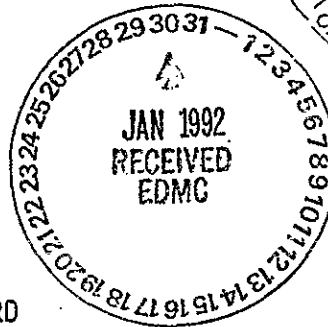
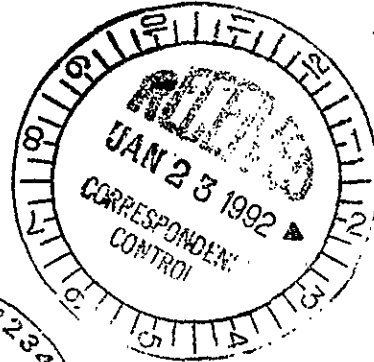
CUTTING OF MULBERRY BUSHES AT HANFORD

References: (1) Letter, R. E. Lerch, WHC, and R. D. Izatt, RL, to P. T. Day, EPA, and T. L. Nord, Ecology, "Removal of Mulberry Bushes from 100-N Area at Hanford," dated January 10, 1992. 9159456 ✓

(2) Letter, T. L. Nord, Ecology, to S. H. Wisness, RL, "Removal Action in the 100-NR-1 Operable Unit," dated December 30, 1991. 9200409 18284

The purpose of this letter is to respond to the State of Washington Department of Ecology (Ecology) letter of December 30, 1991 (Reference 2), on removal of radioactively contaminated mulberry bushes at Hanford. The U.S. Department of Energy Richland Field Office (RL) received the letter on January 6, 1992. The Ecology letter took issue with RL for acting before receiving written approval from Ecology.

Verbal notification was given to Ecology and the U.S. Environmental Protection Agency (EPA) on December 12, 1991, that radioactively contaminated mulberry bushes had been found along the Columbia River shoreline near the N-Reactor at Hanford, and that Westinghouse Hanford Company (WHC) personnel planned to clear away these bushes as soon as the weather permitted. Elimination of the radioactively contaminated mulberry bushes was considered a prudent action consistent with the Atomic Energy Act. Ecology and EPA were not asked to approve the proposed action. The mulberry bushes were cut and taken away between December 13, 1991, and December 22, 1991. Ecology and EPA were subsequently notified (Reference 1).



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At issue is whether Ecology's written approval was required prior to cutting the mulberry bushes. RL believes that approval was not necessary as the action was taken under the authority of the Atomic Energy Act and DOE's implementing orders to control the spread of radioactively contaminated material. Elimination of mulberry bushes was particularly necessary to prevent the spread of contamination since there was evidence that beavers had been cutting the contaminated branches. Several radioactively contaminated branches were found near the Columbia River. It would be reasonable to conclude that various birds might roost or rest among the branches.

While the clearing of the radioactive bushes took place in an operable unit at Hanford (100-NR-1), the operable unit was not disturbed since the bushes were cut off at or near their base. Samples were obtained from the bushes for radiochemical analysis. RL does not consider that this action was in conflict with CERCLA since a Federal mechanism, the Atomic Energy Act and DOE's implementing orders, is in place to deal with radioactive vegetation at DOE operations.

Section 84 of the Atomic Energy Act authorizes the Atomic Energy Commission (now DOE) to manage by-product materials to protect the public health and safety of the environment from radiological hazards. Further, DOE Order 5400.5 establishes the requirements for controlling and removing radioactive contamination at DOE operations. The National Contingency Plan (NCP) at 40 CFR 300.415(b)(2)(vii) recognizes the availability of other Federal and State response mechanisms. Clearing away the radioactive bushes was within RL's purview under the Atomic Energy Act and was allowable under the NCP. Furthermore, such action is performed routinely at Hanford (e.g., tumbleweed elimination).

Under the NCP, a removal action requires formal plans, public involvement, and establishment of an administrative record. The performance of these requirements can consume a considerable quantity of time prior to taking action. Even time critical actions are slowed significantly. RL believes that time was very important here since there was evidence of exposure to animals (beaver gnaw marks) from the radioactive branches, the potential of entry of the contamination into the food chain (animals and birds utilizing the bushes for food or shelter), and concerns for the spread of the contamination to nearby ecosystems (branches found at the river's edge). The radioactive bushes were eliminated to protect the environment and food chain by following the requirements for DOE operations under the Atomic Energy Act.

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Messrs. Day and Nord

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The Ecology letter (Reference 2) stated that during the verbal notifications Ms. Suzanne Clark of RL and Mr. Ron Lerch of WHC had assured Ecology that no action would be taken without prior written approval by Ecology. This is incorrect. Ms. Clark and Mr. Lerch were following established guidelines of notifying EPA and Ecology of their decision to remove the radioactively contaminated mulberry bushes. No written approval was being requested.

The Ecology letter (Reference 2) requested a meeting be held to establish appropriate conduct of the three parties in such instances. We agree that such a meeting is necessary and propose that the meeting be held in conjunction with the unit managers meeting for 100-NR-1 currently scheduled for January 23, 1992, in Richland, Washington. At that time, we will also share with you any radiochemical results which are available from the samples which were taken from the mulberry bushes. We can also provide two years of Resource Conservation and Recovery Act (RCRA) groundwater monitoring data along the same area which clearly show no RCRA hazardous materials (e.g., organics, heavy metals) being present.

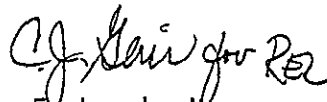
RL shares the goal with Ecology and EPA of restoration of the environment at Hanford and is fully supportive of the letter and intent of the Hanford Federal Facility Agreement and Consent Order. As such, we look forward to our meeting on January 23, 1992.

Sincerely,



R. D. Izatt, Program Manager
Office of Environmental Assurance,
Permits and Policy
DOE Richland Field Office

EAP:RNK



R. E. Lerch, Manager
Environmental Division
Westinghouse Hanford Company

cc: R. E. Lerch, WHC
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P. T. Day, EPA
D. B. Jansen, Ecology

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Subject: CUTTING MULBERRY BUSHES AT HANFORD

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